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BEFORE THE
BOARD OF VOCATIONAL NURSING AND PSYCHIATRIC TECHNICIANS
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

Case No. VN-2008-2405

GARY LEE ALLEN
12109 Sylvan River, #134
Fountain Valley, CA 92708
Vocational Nurse License No. VN 195697

A C C U S A T I O N

Respondent.

Complainant alleges:

PARTIES

1. Teresa Bello-Jones, J.D., M.S.N., R.N. (Complainant) brings this Accusation solely in her official capacity as the Executive Officer of the Board of Vocational Nursing and Psychiatric Technicians, Department of Consumer Affairs.

2. On or about June 21, 2001, the Board of Vocational Nursing and Psychiatric Technicians issued Licensed Vocational Nurse License Number VN 195697 to Gary Lee Allen (Respondent). The Licensed Vocational Nurse License was in full force and effect at all times relevant to the charges brought herein and will expire on October 31, 2012, unless renewed.

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1 administer to another, any controlled substance as defined in Division 10 of the Health and Safety
2 Code, or any dangerous drug as defined in Section 4022.”

3 **REGULATORY PROVISIONS**

4 8. California Code of Regulations (“CCR”), Title 16, section 2518.6(b) (2) states in
5 pertinent part:

6 “...

7 “(b) A licensed vocational nurse shall adhere to standards of the profession and shall
8 incorporate ethical and behavioral standards of professional practice which include but are not
9 limited to the following:

10 “...(2) Maintaining patient/client confidentiality;

11 “...

12 “(c) A violation of this section constitutes unprofessional conduct for purposes of
13 initiating disciplinary action.”

14 9. California Code of Regulations, title 16, section 2521, states:

15 "For the purposes of denial, suspension, or revocation of a license pursuant to Division 1.5
16 (commencing with Section 475) of the Business and Professions Code, a crime or act shall be
17 considered to be substantially related to the qualifications, functions or duties of a licensed
18 vocational nurse if to a substantial degree it evidences present or potential unfitness of a licensed
19 vocational nurse to perform the functions authorized by his license in a manner consistent with
20 the public health, safety, or welfare. Such crimes or acts shall include but not be limited to those
21 involving the following:

22 "...

23 "(c) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the
24 violation of, or conspiring to violate any provision or term of Chapter 6.5, Division 2 of the
25 Business and Professions Code.”

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1 **DRUG DEFINITION**

2 10. "Ativan" is a Schedule IV controlled substance pursuant to Health and Safety Code
3 section 11057(d) (16) and a dangerous drug under Business and Professions Codes section 4022.
4 Ativan is a trade name for the generic drug Lorazepam.

5 **COST RECOVERY**

6 11. Section 125.3 of the Code provides, in pertinent part, that the
7 Board/Registrar/Director may request the administrative law judge to direct a licensee found to
8 have committed a violation or violations of the licensing act to pay a sum not to exceed the
9 reasonable costs of the investigation and enforcement of the case.

10 **FIRST CAUSE FOR DISCIPLINE**

11 (Unprofessional Conduct--Failure to Maintain Confidentiality of Patient Medical Information)

12 12. Respondent is subject to disciplinary action under section 2878(a)(5) and CCR Title
13 16, sections 2518.6(b)(2) in that Respondent, while employed by Western Medical Center in
14 Anaheim, CA, failed to maintain confidentiality of patient medical information by maintaining
15 copies of protected health information ("PHI") in his personal drawer and locker. The
16 circumstances are as follows:

17 13. On or about February 2009, hospital staff reported that Respondent possession of
18 patient PHI including ENF and portions of patients' medical records. In a hospital investigation
19 in February 2009 of Respondent's drawer and locker at Western Medical Center in Anaheim, it
20 was discovered that Respondent had possession of patient PHI, including Event Notification
21 Forms ("ENF") and patient medical records. The investigation concerning this report revealed
22 that Respondent possessed ENF forms with copies of patient medical records attached and a
23 separate patient medical record. This was a violation of hospital confidentiality policy and
24 various provisions of law.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Board of Vocational Nursing and Psychiatric Technicians
4 issue a decision:

5 1. Revoking or suspending Licensed Vocational Nurse License Number VN 195697,
6 issued to Gary Lee Allen;

7 2. Ordering Gary Lee Allen to pay the Board of Vocational Nursing and Psychiatric
8 Technicians the reasonable costs of the investigation and enforcement of this case, pursuant to
9 Business and Professions Code section 125.3;

10 3. Taking such other and further action as deemed necessary and proper.

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12 DATED: February 22, 2011



TERESA BELLO-JONES, J.D., M.S.N., R.N.
Executive Officer
Board of Vocational Nursing and Psychiatric Technicians
Department of Consumer Affairs
State of California
Complainant

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